STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-580

May 3, 2001

PUBLIC UTILITIES COMMISSION
Investigation of Central Maine Power Company's Stranded Costs, Transmission and Distribution Utility Revenue Requirements, and Rate Design

ORDER ON RECONSIDERATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

On March 28, 2001, in order to mitigate the impact of significant increases to generation prices that these customers must pay effective March 1, 2001, we issued an order in this proceeding which reduced the transmission and distribution rates (T&D) of Central Maine Power Company (CMP) by 0.8¢/kWh for customers that fall within the medium and large non-residential standard offer customer classes but declined to extend the reduction to customers on special rate contracts. By this Order, we grant in part and deny in part of the motion of the Industrial Energy Consumer Group (IECG) to modify our decision of March 28, 2001, and thus expand the scope of the mitigation reduction to include, within certain parameters customers on special rate contracts but decline to increase the amount of the mitigation to 1.0¢/kWh.

II. BACKGROUND

On February 9, 2001, recognizing the impact of the significant increase in generation prices on CMP's customers, the Commission invited comment from interested persons on whether the Commission should act to mitigate the increases. Based on the comments provided, the Commission found that even though generation costs are no longer regulated, it was clear that the generation price increases could cause "rate shock" and that the Asset Sale Gain Account (ASGA) that resulted from CMP's generation asset divestiture provided the Commission with the means to mitigate "rate shock" by modifying the ASGA amortization schedule.

Because current level of generation prices may be related to the immaturity of the market, and thus may recede over time, and because CMP's stranded costs are forecasted to decrease in 2006, the Commission concluded that it was reasonable to reduce T&D prices by 0.8¢/kWh for the period April 15, 2001, through February 28, 2002, for customers in the large and medium standard offer classes (whether or not the customers actually took standard offer service). We also concluded that the 0.8¢/kWh price reduction should not be applied to customers on special rate contracts. Pricing for customers on "bundled rate" contracts are already mitigated because customers pay the same bundled rate regardless of cost of generation service. We concluded that other

special rate contract customers have had the benefit of lower T&D rates through contractual commitments and should be held to the bargain they made with the utility.

On April 5, 2001, the IECG filed a motion asking that we reconsider our March 28, 2001 Order.[1] In its motion for reconsideration, the IECG requested that the Commission reconsider its decision to exclude customers with special T&D contracts from the mitigation reduction and that the mitigation reduction be increased to 1.0¢/kWh to be applied to all eligible customers in the way of a bill credit. The IECG argued that by excluding special rate contract customers from the effect of the mitigation order, the Commission failed to recognize the impact that the dramatic increase in energy prices would have on such customers. As part of its motion, the IECG incorporated the testimony before the Legislature of State Economist, Laurie LaChance. Citing that testimony, the IECG argued that the Commission should modify its decision while taking into account the follow policy considerations:

1. Accelerated drawn-down of the asset sale gain account should be capped and expenditure of those funds limited to one year;

2. The absolute cap should be set at a level which ensures that less than 2 years is shaved from the amortization schedule, and a shortening of the schedule by 1 to 1.5 years should be the preferred target; and

3. Eligibility for rate relief from this fund should be expanded to at least consider those customers who currently have special rate contracts.

In its response to the IECG's motion, CMP argued against both increasing the level of the price mitigation from .8¢/kWh to 1.0¢/kWh and expanding the scope of the mitigation reduction to include customers taking service pursuant to targeted rates and contracts. The Company argued that the current rate mitigation order requires the amortization of an additional $30 million from the Asset Sale Gain Account which reduces the amortization period by 1.3 years. Thus, the current mitigation adopted by the Commission is well within the target recommended by Ms. LaChance. Increasing the mitigation amount to 1.0¢/kWh for core customers and expanding the scope of the 1.0¢/kWh to unbundled special rate contract customers would each require an additional $7 million reduction of the ASGA account. This additional reduction would shorten the ASGA amortization beyond the 1.5-year upper target boundary.

The Company argued that the Commission's rationale for excluding special rate contracts in its initial order was sound and that the Commission should continue to exclude such customers from the scope of the mitigation order. If however, the Commission decided to include special rate contract customers, the Company offered the following points on how such mitigation should be provided:

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[1] By way of this Order, we waive the provision of Section 1004 of our Rules of Practice and Procedure that motions for reconsideration not acted on within 20 days are deemed denied.

1. Customers should not pay less than the estimated marginal costs of providing delivery service and the estimated marginal costs should act as a floor for mitigation rates;

2. CMP has recently lowered its Diesel Deferral prices to recognize, in part, the higher supply prices. It would not be appropriate to further reduce the price paid by these customers through the supply price mitigation process;

3. CMP also reduced the price for the medium commercial and industrial customers in the Easy Hours for Business Program by $.008 per kWh as part of the compliance filing dated March 30, 2001 in this docket. The Commission has since approved that price decrease. It would be inappropriate to reduce the price by an additional amount;

4. The Made Maine Incentive Program is a reduction from the core rates which have already been reduced by $.008 per kWh in this docket and, therefore, should not be reduced further;

5. Bundled contracts that extend into the April 2001 through February 2002, should not be included; and

6. Contracts with customers in which the prices are tied to core rates should not receive further reductions since those customers prices will be mitigated by the core rate being mitigated.

III. DECISION

A. Scope of the Mitigation Reduction

As we noted in our March 28, 2001 Order, special rate contract customers have had the benefit of lower T&D rates through their contracts and, in most instances, the special contract rate is still lower than the mitigated T&D rate for similarly situated CMP core customers. We agree with the IECG's argument that the underlying rationale for our decision to use the Asset Sale Gain Account to reduce T&D rates at this time was to soften the rate shock from the recent increase in generation prices. We also agree with the IECG that special rate contract customers, although receiving a lower T&D rate than core customers, will suffer from the same rate shock due to the recent run-up in generation prices. We are therefore persuaded, based on the arguments presented on reconsideration, that the mitigation reduction which we ordered on March 28, 2001 should be expanded to include, within the parameters discussed below, special rate contract customers.

First, we will continue to exclude from the mitigation reduction customers on bundled special rate contracts, because those customers pay the same total rate regardless of the generation price. Therefore, the rates for customers with bundled

contracts are already effectively mitigated and should not be reduced further. In addition, customers whose special rates are tied to core rates also received a mitigation reduction when we reduced core rates and should not receive further reduction. The Company observes that customers on the Easy Hours for Business program and the Maine Made Incentive program have already received reductions and therefore no further reductions are warranted. We agree with the Company that no further reduction is warranted for customers taking service under these programs.

In its reply comments, the Company argues that customers' rates should not be mitigated below the Company's estimated marginal costs of providing delivery service. Since the mitigation program we have adopted here is a short-run program which is aimed at avoiding price shock, we do not believe that it is necessary or appropriate to constrain the price reduction to the long-run marginal costs presented by the Company. We continue to believe, however, that no distribution rate element should go negative, since doing so would mean other ratepayers are paying those customers to take service. As set forth in our March 28th Order, the reduction will first be applied to kWh charges and then demand charges, if necessary, to realize the full benefit of the mitigation. No distribution rate element, however, will go below zero as a result of our Order.

The Company, in its comments, notes that it recently lowered its Diesel Deferral Rate (DDR) to recognize, in part, the higher generation supply prices and, therefore, it would not be appropriate to further reduce the price paid by the customers through the supply price mitigation process. A cogeneration deferral rate, such as the DDR, provides customers discounts from the tariffed rate based on a comparison of the all-in price for electricity service and the price of the customers' self-supply alternatives. Thus, an increase in the all-in price of electricity, all other things being equal, will require a reduction in the cogeneration deferral rate. On March 5, 2001, the Commission approved a .5¢/kWh reduction in the diesel deferral rate that had previously been set in December, 2000. *Central Maine Power Company, Proposed Revisions to Optional Targeted Service Rate: Diesel Generation Deferral Energy Service (DDR)*, Docket No. 2001-131,Order (Mar. 5, 2001). We agree with the Company that this recent reduction in the deferral rate can be traced to the recent run-up in generation prices and thus constitutes a mitigation of the T&D rate. Since the reduction was less than the amount that we have ordered here, we conclude that deferral customers taking service under the DDR should be allowed the difference between what we have ordered here and the .5¢/kWh reduction approved this past March, so that their total reduction will be .8¢/kWh.

The mitigation reduction ordered here shall be effective April 15, 2001, the effective date of our original mitigation order. The reduction shall apply to contracts entered into between the Company and a customer on or before April 20, 2001.[2] Consistent with our March 28, 2001 Order, the mitigation reduction shall be in effect until February 28, 2002.

[2] April 20, 2001 is the date we deliberated this matter.

B. The Level of Mitigation Reduction

The IECG also requests that the mitigation amount be increased to 1.0¢/kWh. Incorporating the comments of the State Economist Laurie LaChance, the IECG argues that the amount provided for mitigation should reduce the ASGA amortization schedule by no more than 2 years with a 1 to 1.5 year period being the "preferred target" for the shortening of the schedule. CMP, in reply, argues, that the Commission's March 28, 2001 order already requires the amortization of $30 million, which shortens the life of the ASGA amortization by 1.3 years.[3]

The Commission has not yet established a long-term amortization schedule for the Asset Sale Gain Account. In our Order Approving Stipulation issued on February 24, 2000 in this docket, we set stranded cost rates, to take effect on March 1, 2000, for a 2-year period. At that time, we determined only the appropriate amortization of the ASGA for that 2-year period. If the amortization used in the initial stranded cost rate setting process were carried forward on a levelized basis, the ASGA amortization would run for approximately 8 years.

We estimate that the reduction to core rates resulting from our March 28, 2001 Order would have required approximately a $24.9 million reduction in the ASGA, when we take into account the impact of reductions to rates which work off the core tariffs.[4] Given the expanded scope of the supply mitigation reduction here, the amount necessary to effect the reduction has increased to $28.3 million. Assuming the hypothetical 8-year schedule noted above, a $28.3 million reduction in the ASGA would shorten the ASGA's life by approximately 16 months, which falls within the target suggested by State Economist LaChance.[5]

In our March 28, 2001 Order, we found that the 0.8¢/kWh reduction, which is approximately 10% of current generation costs, would provide a modest but nevertheless significant degree of price mitigation, without amortizing the gain account in a manner that would require future stranded cost-related rate increases. Based on

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[3] The Commission's estimated cost of the mitigation differs from the amount claimed by CMP due to CMP's exclusion of the stranded cost savings which automatically result from QF contract provisions that reduce contract costs when T&D rates are reduced.

[4] In our March 28, 2001 Order, we estimated the impact of the mitigation reduction to be $23.8 million. That estimate did not account for reduction in non-core rates which automatically occur when the core tariff is reduced.

[5] In estimating the reduction in the ASGA's life, we use a "rate neutrality" approach which keeps rates in the out years as they would have been absent the ASGA reduction and determines the change in the ASGA's life given the reduction and the increased amortization needed to achieve rate neutrality.

the arguments presented, we conclude that our decision setting the mitigation decrease at .8¢/kWh should not be modified.

In closing, we note that not all classes of customers have received the benefits of the ASGA amortization utilized to effect the rate reductions ordered here and in our March 28, 2001 Order. This fact will be considered in deciding whether future generation price increases should be mitigated in the manner we have done here and in determining how the ASGA amortization should be allocated among customer classes when we set stranded cost rates for the period commencing March 1, 2002.

C. Delegation

As a result of this Order, we expect that CMP will have to reform a large number of its special rate contracts with its customers. We, therefore, delegate to the Director of Technical Analysis, authority to review and approve contracts which are filed with the Commission pursuant to this Order and are found to be in compliance with the terms set forth above and in our Order of March 28, 2001.

Accordingly, we

O R D E R

1. That within the parameters set forth in our decision above, our Order of March 28, 2001 in this docket is modified to allow customers within Central Maine Power Company's medium and large standard offer classes who have special rate contracts a reduction of .8¢/kWh in their T&D rates.

2. That the Industrial Energy Consumers Group's motion to increase the level of the mitigation reduction from .8¢/kWh to 1.0¢/kWh is denied.

3. That the Director of Technical Analysis is delegated authority to approve contracts filed in compliance with this Order.

Dated at Augusta, Maine, this 3rd day of May, 2001.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.